

Serial No. 09/855,195

Docket No.: KCC-14,280

REMARKS

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 19-24 and 30-35 are pending, with Claims 30-33 withdrawn from consideration.

Amendment to the Claims

Claims 19-24 and 34-35 have been examined, with no claims being allowed. Claim 19 has been amended.

Applicants have amended Claim 19 pursuant to the Examiner's suggestion. Applicants respectfully believe this amendment overcomes the Examiner's claim objections.

Applicants have further amended Claim 19 to include the limitation of the absorbent composite structure comprising an absorbent assembly positioned between a bodyside liner and an outer cover. Support for this amendment is provided at page 14, lines 9-20.

Applicants have also amended Claim 19 to include the limitation of at least the front or back side panels, rather than the pieces of targeted elastic material, being permanently bonded to and extending transversely beyond an associated linear side edge of the absorbent composite structure. Support for this amendment is provided at page 18, lines 6-12, of the specification.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims also remains unchanged.

Claim Rejections - 35 U.S.C. §102

The rejection of Claims 19-24 and 34-35 under 35 U.S.C. §102(b) as being anticipated by Van Gompel et al. (EP 0 743 052 A2) is respectfully traversed.

Van Gompel et al. disclose a disposable three-dimensional garment having a full outer cover.

KCC-1093

6

MR/S

Serial No. 09/855,195

Docket No.: KCC-14,280

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Van Gompel et al. do not disclose each and every element or limitation of currently amended Claim 19. Applicants' invention as recited in independent Claim 19 requires that the front and/or back panels include a targeted elastic material and that the front and/or back panels are bonded to and extend transversely beyond a linear side edge of an absorbent composite structure. As recognized by the Examiner, Applicants have described the absorbent composite structure at page 14, lines 9-20, as including an outer cover, a bodyside liner, and an absorbent assembly between the outer cover and the bodyside liner. Additionally, Claim 19 explicitly requires the absorbent composite structure to comprise an absorbent assembly positioned between the outer cover and the bodyside liner.

Van Gompel et al. do not disclose side panels that include TEM, nor do Van Gompel et al. disclose side panels that are permanently bonded to and extend transversely beyond a linear side edge of an absorbent composite structure. Instead, in Van Gompel et al., the outer cover fully encompasses the garment (Abstract; Col. 2, lines 1-3; Col. 4, lines 1-3). Thus, no side panels or portions of side panels extend transversely beyond a linear side edge of the outer cover in the garment of Van Gompel et al.

Also recognized by the Examiner, Applicants have defined the term "targeted elastic material" ("TEM") at page 7, lines 4-10. More particularly, TEM is a single elastic material or laminate having targeted elastic regions. TEM's include only materials or laminates which are made in a single manufacturing process, and which are capable of exhibiting targeted elastic properties without requiring an added elastic band or layer in the targeted elastic region. TEM's do not include materials having elasticized regions achieved through separate manufacture of an elastic band, and subsequent connection of the elastic band to the underlying material.

The manufacturing process described in Van Gompel et al. and cited by the Examiner at Col. 7, lines 32-54, recites separate manufacture of an elastic band, and subsequent connection of the elastic band to the underlying material. Although the elastic band is not activated at the time of attachment, the elastic band

KCC-1093

7

MR/S

Serial No. 09/855,195

Docket No.: KCC-14,280

is, nevertheless, applied to the underlying material subsequent to manufacture. As described by Van Gompel et al., the stretchable side members do not include targeted elastic material because the stretchable side members require more than a single manufacturing step to create the stretchable side members. More particularly, the stretchable side members require the separate steps of (1) combining the nonwoven layer and the heat-shrinkable layer, (2) incorporating the combined layers into a garment, and (3) thermally bonding the garment to activate the heat-shrinkable layer. Thus, Van Gompel et al. fail to disclose a targeted elastic material.

Like Van Gompel et al., the Popp et al. reference (U.S. Patent No. 5,895,382, cited by the Examiner in response to Applicants' previous arguments) also fails to disclose a targeted elastic material.

For at least the reasons presented above, Applicants respectfully submit that Claim 19 is not anticipated by Van Gompel et al. Because Claims 20-24 and 34-35 depend from Claim 19, these claims are also not anticipated by Van Gompel et al. Thus, Applicants respectfully request withdrawal of this rejection.

Double Patenting Rejections

A. U.S. Application No. 09/855,188

The provisional rejection of Claims 19-24 and 34-35 under the judicially created doctrine of obviousness-type double patenting over claims 1-19, 21, 50-59 of copending U.S. Application No. 09/855,188 in view of Van Gompel et al. (EP.0 743 052) and Bunnelle et al. (U.S. Patent No. 4,418,123) is respectfully traversed.

The present application and U.S. Application No. 09/855,188 are pending. Allowable subject matter, notwithstanding the provisional obviousness-type double patenting rejection, has not been indicated in either of these applications. Where a provisional rejection under the judicially created doctrine of obviousness-type double patenting is made between two or more applications, M.P.E.P. §804(I)(B) states that “[i]f the ‘provisional’ double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the

KCC-1093

8

MR/S

Received from <847 490 1403> at 11/5/03 12:45:53 PM [Eastern Standard Time]

Serial No. 09/855,195

Docket No.: KCC-14,280

'provisional' double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent." It is not evident which of the pending applications will become allowable first. Therefore, any action by Applicants with regard to this provisional rejection is premature.

B. U.S. Application No. 09/855,189

The provisional rejection of Claims 19-24 and 34-35 under the judicially created doctrine of obviousness-type double patenting over claims 1-24 and 49-58 of copending U.S. Application No. 09/855,189 in view of Van Gompel et al. (EP 0 743 052) and Bunnelle et al. (U.S. Patent No. 4,418,123) is respectfully traversed.

The present application and U.S. Application No. 09/855,189 are pending. Allowable subject matter, notwithstanding the provisional obviousness-type double patenting rejection, has not been indicated in either of these applications. Where a provisional rejection under the judicially created doctrine of obviousness-type double patenting is made between two or more applications, M.P.E.P. §804(I)(B) states that "[i]f the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent." It is not evident which of the pending applications will become allowable first. Therefore, any action by Applicants with regard to this provisional rejection is premature.

KCC-1093

9

MR/S

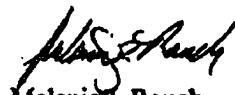
Serial No. 09/855,195

Docket No.: KCC-14,280

Conclusion

Applicants believe that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicants' undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



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Attachments

KCC-1093

10

MR/S

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